

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

BENJAMIN FETTKETHER,

Plaintiff/Counterdefendant,

v.

PROGRESSIVE NORTHWESTERN
INSURANCE COMPANY,

Defendant/Counterclaimant.

Cause No. CV 23-18-BLG-SPW

ORDER

On February 7, 2025, the Ninth Circuit Court of Appeals reversed this Court's order granting summary judgment to Plaintiff Fekkether, and remanded with the following instructions:

Because Progressive met its burden to demonstrate that the UTV fell outside the Auto Policy's coverage, no duty to defend existed under these circumstances. We reverse the grant of summary judgment in favor of Fekkether and instruct the district court to grant Progressive's cross-motion for summary judgment.

Based on the determination of the Ninth Circuit Court of Appeals,

IT IS HEREBY ORDERED that Progressive Northwestern Insurance Company's ("Progressive's") cross-motion for summary judgment (Doc. 16) is **GRANTED** because Progressive met its burden to demonstrate that the Utility Terrain Vehicle fell outside the Auto Policy's coverage and therefore Progressive

owed no duty to defend its insured, Sully Weinreis, in the underlying claims asserted by Fettkether.

Based on stipulation of the parties (Doc. 49), and for good cause showing,

IT IS FURTHER ORDERED that this cause of action is **DISMISSED WITH PREJUDICE**, with each party bearing his and its own costs and attorney's fees.

The Clerk of Court is directed to notify the parties of the making of this Order.

DATED this 20th day of March, 2025.


SUSAN P. WATTERS
U. S. DISTRICT COURT JUDGE